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SUBJECT: VIETNAM: INVESTMENT CLIMATE STATEMENT APPENDIX
2004

REF: STATE 141379

1. This cable provides the suggested text of the 2004 Investment Climate Statement Appendix for Vietnam. As requested reftel, post has also sent the ICS/A via email to EB/IFD/OIA Alexander T. Bryan.

2. Begin text of the 2004 Investment Climate Statement Appendix for Vietnam:

Vietnam - July 2004 Appendix to 2003 Investment Climate Statement

This appendix serves as an update to the 2003 Investment Climate Statement for Vietnam. It has been provided to assist investors in the interim period resulting from the U.S. Government's decision to begin publishing the Country Commercial Guide (of which the Investment Climate Statement is a chapter) on a calendar year basis, in January instead of August.

The United States Government has reviewed the 2003 Investment Climate Statement for Vietnam, and has noted the following changes that have occurred since its publication. In most circumstances, if a portion of the 2003 Investment Climate Statement has not been modified in this appendix, it is because the U.S. Government is satisfied that it continues to accurately reflect the state of affairs in Vietnam as of July 2004.

Openness to Foreign Investment:

In an effort to unify the laws governing foreign and domestic investment, the Government issued Decree 38 in April 2003 providing for the conversion of a number of foreign invested enterprises (FIEs) into foreign invested shareholding companies (FISCs). The conversion option is only available to joint ventures (JVs) and FIEs. A FISC must continue to implement the approved investment project of the former FIE and will be entitled to preferential treatment under the Law on Foreign Investment and its implementing regulations. Nevertheless, the rights of FISCs' shareholders and the organizational structure of the FISCs will be governed by the Law on Enterprises, the same as for domestic shareholding companies. A FISC must have at least one foreign founding shareholder and the total shareholding of the foreign founding shareholder(s) must be at least thirty percent of the FISC's chartered capital throughout the life of the company. FISCs will be permitted to list on the Vietnam stock exchange.

Only a limited number of FIEs were selected by the Ministry of Planning and Investment (MPI), in consultation with other ministries, for conversion into FISCs. To qualify for conversion, a FIE must have been in operation for at least three years, it must have made profits in the year immediately preceding the year of conversion, and its legal capital must be fully paid. All conversions are subject to the Prime Minister's approval.

As part of the tax reforms and as a financial incentive to foreign investors, the Ministry of Finance issued Circular 26 in March 2004 abolishing profit remittance tax for foreign invested enterprises.

Conversion and Transfer Policy:

No significant changes since 2003.

Expropriation and Compensation:

No significant changes since 2003.

Dispute Settlement:

No significant changes since 2003.

Performance Requirements and Incentives:

No significant changes since 2003.

Right to Private Ownership and Establishment:

No significant changes since 2003.

Protection of Property Rights:

The GVN reversed its decision to move responsibility for trademark registration from the National Office of Industrial Property (NOIP) to the Ministry of Trade in Decree No. 28/2004/NC-CP dated January 16, 2004.

Transparency of the Regulatory System:

In 2002 the GVN amended the Law on the Promulgation of Legal Normative Documents to require that all legal documents and agreements to international conventions be published in the Official Gazette. As of July 2003, the Official Gazette has been published on a daily basis.

Efficient Capital Markets and Portfolio Investment:

As part of its stated efforts to encourage foreign investment and to promote the development of the relatively new stock market, the Government issued Decision 146 in July 2003 abolishing the equity limit of a single foreign organization or a single foreign individual in a listed Vietnamese company.

Political Violence:

Large demonstrations by ethnic minorities in the Central Highlands occurred again in 2004.

Corruption:

No significant changes since 2003.

Bilateral Investment Agreements:

Vietnam concluded 2 bilateral investment agreements with Japan and Namibia.

OPIC and Other Investment Insurance Programs:

No significant changes since 2003.

Labor:

No significant changes since 2003, except the number of strikes rose from 79 cases in 2002 to 119 cases in 2003.

Foreign Trade Zones/Free Ports:

No significant changes since 2003.

Foreign Direct Investment Statistics:

Statistics will be updated in the next full revision of the Investment Climate Statement, which will be published in January 2005.
End text of Investment Climate Statement Appendix for Vietnam.

